

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GNAT BOOTY MUSIC, et al.,	:	Civil Action No. 06-5522 (GEB)
	:	
Plaintiffs,	:	
	:	
v.	:	O R D E R
	:	
JAY KAY JAY, INC., et al.,	:	
	:	
Defendants.	:	
	:	

This matter having come before the Court upon Motion by *pro se* Defendant Kathleen A. Tartivita (“Defendant”) to Amend Answer to File Counterclaim [Docket Entry # 15], returnable July 16, 2007; and Plaintiffs opposing the motion; and corporate co-Defendant Jay Kay Jay, Inc. having already filed a similar counterclaim; and Defendant stating that “[d]espite having been provided with proof of payments...the plaintiffs refuse to drop this litigation.” (Tartivita Cert. at ¶ 5); and Defendant further stating that “[i]t is apparent that the plaintiffs have sued this defendant to extort money for ASCAP.” *Id.* at ¶ 6; and Defendant further stating that “this defendant seeks permission to amend her answer to file a counterclaim against all of the individual plaintiffs.” *Id.* at ¶ 7; and the Court noting that leave to amend “shall be freely given when justice so requires.” FED. R. CIV. P. 15(a); and the Court further noting that it can deny a Motion to Amend if: 1) there has been undue delay, bad faith, or dilatory motive; 2) if the amendment would be futile; or 3) if there would be prejudice to the other party. Hill v. City of Scranton, 411 F.3d 118, 134 (3d Cir. 2005); and the Court finding no undue delay, bad faith or dilatory motive on the part of Defendant; and the Court further finding that the within decision is without prejudice to Plaintiffs and that Plaintiffs reserve their right to file either a motion to dismiss under FED. R. CIV. P. 12 or a motion for summary judgment under FED. R. CIV. P. 56; and the Court having reviewed the submissions of the parties; and the Court having conducted oral argument by recorded telephone conference call on July 31, 2007; and for the reasons

stated on the record of July 31, 2007; and good cause having been shown;

IT IS on this 31st day of July, 2007,

ORDERED that Defendant's Motion to Amend Answer to File a Counterclaim [Docket # 15] is Granted; and it is

FURTHER ORDERED that the Amended Answer and Counterclaim be filed no later than **August 14, 2007**; and it is

FURTHER ORDERED that Plaintiffs reserve their right to file a motion for dispositive relief pursuant to FED. R. CIV. P. 12 or FED. R. CIV. P. 56.

/s/ John J. Hughes

JOHN J. HUGHES

UNITED STATES MAGISTRATE JUDGE